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Chairman: Mr. VILCHEZ ASHER (Nicaragua)

Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. MSELLE

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The meeting was called to order at 3.20 p.m.

AGENDA ITEM 138: ADMINISTRATIVE AND BUDGETARY ASPECTS OF THE FINANCING OF THE UNITED NATIONS PEACE-KEEPING OPERATIONS (continued)

(a) FINANCING OF THE UNITED NATIONS PEACE-KEEPING OPERATIONS (continued) (A/49/906 and Corr.1, A/50/684, A/50/807, A/50/887, A/C.5/49/66 and A/C.5/49/70)

Death and disability benefits

Reform of the procedure for determining reimbursement to Member States for contingent-owned equipment

1. Mr. TAKASU (Controller), introducing the report of the Secretary-General entitled "Death and disability benefits" (A/49/906), said that, in its resolution 49/233 of 23 December 1994, the General Assembly requested the Secretary-General to submit concrete proposals on possible revisions to the current arrangements for compensation for death or injury sustained by contingent troops in the service of United Nations peace-keeping operations. The resolution requested the Secretary-General to submit those proposals on the basis of the principles of: (a) equal treatment of Member States; (b) compensation to the beneficiary that is not lower than reimbursement by the United Nations; (c) simplification of administrative arrangements to the extent possible; and (d) speedy settlement of claims for death and disability.

2. Bearing in mind those four principles, the Secretary-General considered five possible options: maintenance of current arrangements with a reasonable minimum level of compensation payable for death and disability (option 1); application of a system of compensation featuring standardized rates of reimbursement for death and disability (option 2); application of a uniform global insurance scheme to cover all troops (option 3); application of current arrangements for military observers and civilian police (option 4); and maintenance of the current system of following national legislation with a ceiling (option 5).

3. The Secretary-General considered that only options 2 and 3 met all the criteria contained in General Assembly resolution 49/233. In conformity with option 2, the unused monies would be reimbursed to the appropriate Member State; according to option 3, on the other hand, the unused part would remain in a global fund and be carried forward; that would provide the Organization with a degree of protection against catastrophic loss. In that regard, he hoped that the Fifth Committee would reach an agreement as soon as possible on the system that should be applied.

4. Introducing the report of the Secretary-General entitled "Reform of the procedure for determining reimbursement to Member States for contingent-owned equipment" (A/50/807), he said that, in its resolution 49/233, the General Assembly authorized the Secretary-General to proceed with a reform of the procedure for determining reimbursements to Member States for contingent-owned

equipment provided to peace-keeping missions. To that end, in 1995 two Working Groups, made up of technical and financial experts from Member States, were established; the Working Groups formulated the recommendations contained in documents A/C.5/49/66 and A/C.5/49/70 In his report, the Secretary-General summarized the recommendations of the Working Groups and expressed his opinion on them. The Working Groups recommended that reimbursement to troop-contributing countries should be made on the basis of a "wet lease", whereby troop-contributing countries would provide major equipment and maintenance, or a "dry lease", whereby troop-contributing countries would provide only major equipment, with the United Nations assuming responsibility for maintenance. The Working Groups recommended that minor equipment and consumables not directly related to major equipment should be reimbursed for "self-sustainment" costs based on troop strength. Performance factors had also been recommended to ensure that troop-contributing countries performed as per the mandate assigned to them. The Secretary-General supported the leasing and self-sustainment concepts, considering that they would provide flexibility both to troop-contributing countries and to the United Nations because the Organization would not be restricted to countries that could fully support themselves. Moreover, the proposal would help reduce the bureaucratic process by eliminating the current lengthy survey procedures.

5. In part IV of the report, entitled "Action to be taken by the General Assembly", the Secretary-General recommended that the General Assembly consider the approval of a number of principles, and that it not approve, inter alia, the proposal on reimbursement for inland transportation.

6. It was necessary to continue work on the preparation of a contribution agreement between the United Nations and the troop-contributing countries that would establish procedures and guidelines for starting up a programme for training persons to administer the new system.

7. Mr. MSELLE (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the report of the Advisory Committee entitled "Reform of the procedure for determining reimbursement to Member States for contingent-owned equipment" (A/50/887), said that the annex to the report contained the main recommendations made by the Working Groups and the recommendations of the Secretariat. As indicated in paragraph 3 of the Advisory Committee's report, where the Secretary-General had accepted the Working Groups' recommendations, the Advisory Committee recommended that the General Assembly should approve the Secretary-General's proposals.

8. Paragraph 5 referred to the differences that still existed on the question. Those differences related, inter alia, to reimbursement for inland transportation, liability of the United Nations under the lease system, loss of or damage to equipment as a result of hostile action, and certain environmental factors. The Advisory Committee had held lengthy discussions of the question of inland transportation. In that connection, the Advisory Committee suggested, in paragraph 10 of its report, that the General Assembly might wish to take its observations into account when it considered the recommendations of the Phase III Working Group as contained in paragraph 46 of document A/C.5/49/70

9. In paragraph 11 of its report, the Advisory Committee provided clarification regarding the recommendation in paragraph 47 (d) of the annex to document A/C.5/49/70, concerning the assumption by the United Nations of total responsibility for loss or damage under the lease system. In that connection, the Advisory Committee recommended acceptance of the understanding set out in paragraph 11.

10. With regard to the question of loss of or damage to major equipment due to hostile action or forced abandonment, referred to in paragraphs 33 to 36 and 55 (d) of the Secretary-General's report (A/50/807), the Advisory Committee recommended, in paragraph 13 of its report, that the Secretary-General should be asked to make proposals (after appropriate consultations with Member States) on the percentage to be used as a risk factor. The Advisory Committee believed that that outstanding issue should not be considered an impediment to the adoption of the system proposed by the Working Groups and the Secretariat.

11. With regard to the establishment of an environmental and operational factor, the Advisory Committee indicated, in paragraph 14 of its report, that it agreed with the Secretary-General's view and recommended acceptance of the proposal in paragraph 55 (d) of the Secretary-General's report (A/50/807).

12. Paragraphs 15 to 25 of the Advisory Committee's report dealt with the important issue of implementation of the new system for reimbursement for contingent-owned equipment. As indicated in paragraph 15, in order to put the new system into effect, it was essential that a service/contribution agreement be completed as a matter of utmost priority. In paragraph 16 of its report, the Advisory Committee requested that a new draft agreement be submitted for its consideration. The draft should be accompanied by a full text of the implementation procedures, agreed performance standards and the rates of reimbursement for contingent-owned equipment, together with the agreed text of all definitions. In the view of the Advisory Committee, the establishment of the new system would have an impact on the Secretariat's efficiency in terms of the bureaucratic process and reimbursements to Member States. The Advisory Committee trusted that as many troop-contributing States as possible would join the new system by 1 July 1996.

13. In paragraph 25 of its report the Advisory Committee requested the Secretary-General to monitor the implementation of the new system and report on its impact on staff and other resources both at Headquarters and in the field.

14. Mr. FERRARIN (Italy), speaking on behalf of the European Union, welcomed the outcome of the work of the two Working Groups established pursuant to General Assembly resolution 49/233 of 23 December 1994. That work was aimed at establishing realistic standards for determining reimbursement to Member States for contingent-owned equipment made available to peace-keeping missions, which would help to simplify the procedures and provide more predictable and credible mission budgets. The European Union also supported most of the Secretary-General's report on the subject (A/50/807). The introduction of the "lease" concept was a significant element of the reform of the reimbursement procedure for contingent-owned equipment.

15. The European Union would prefer to maintain the current practice of not reimbursing inland transport costs. Those who held the opposite opinion did not take into account that the objective of the Working Groups was to present proposals for a streamlining and standardizing of existing procedures that would not result in a net increase of costs for the United Nations. Moreover, reimbursement of inland transport costs could create difficulties for the United Nations with respect to claims verification and validation.

16. With regard to responsibility for loss or damage due to no-fault incidents to contingent-owned equipment, the European Union welcomed the proposal for the settlement of disputes contained in paragraph 11 of the report of the Advisory Committee on Administrative and Budgetary Questions (A/50/887). With regard to responsibility for loss and damage due to hostile actions or forced abandonment, the European Union could, for the sake of streamlining, agree to the recommendation to limit United Nations responsibility for loss or damage of major equipment to those cases which a collective value equal to or exceeding US$ 250,000. That threshold element could be introduced immediately.

17. The European Union endorsed the view of the Working Group that Member States should be responsible for loss or damage due to hostile action for each and every item below the threshold.

18. The European Union supported the basic thrust of the Secretary-General's proposal to combine reimbursement for extreme environmental and intensified operational conditions into one factor only, not to exceed a percentage of the reimbursement rates for minor equipment and of the leasing costs for major equipment (A/50/807, para. 50). Furthermore, the European Union concurred in the recommendation of the Working Group that the arrangements for reimbursement in respect of special equipment should be based on data provided by both the Member State involved and the Secretariat.

19. The European Union agreed with the Advisory Committee's request that the Secretary-General should report on the impact of the changes, and that the new system should be reviewed at the end of the first biennium and subsequently every three years.

20. Lastly, with regard to the implementation of the new system, the European Union concurred in the recommendation in paragraph 51 (b) of the Working Group's report (A/C.5/49/70), as well as in the recommendation in paragraph 20 of the Advisory Committee's report.

21. Mr. GJESDAL (Norway) said that, due to a variety of factors, the arrangement for reimbursement to Member States for contingent-owned equipment had functioned poorly for many years. One indication was that the United Nations currently owed Member States in excess of US$ 600 million in reimbursement for equipment.

22. In the realization that it was necessary to improve reimbursement procedures and to seek a solution as simple and straightforward for contingent-owned equipment as that established for reimbursement in respect of troop contingents, the Secretary-General had called for the examination of

alternatives, and that call, taken up in General Assembly resolution 49/233 of 23 December 1994, had led to noteworthy results.

23. The phase II and III Working Groups on the subsequent reform project had produced recommendations on definitions of equipment and rates of reimbursement. Even more significant had been the agreement on a force leasing concept, based on a combined wet lease/dry lease arrangement for mission budgeting, expenditure control and cost reimbursement.

24. Another agreed new departure was the self-sustainment approach to meeting costs for minor equipment and consumables based on troop strength. The new reimbursement system might be implemented for new operations with effect from 1 July 1996, although there were still some hurdles to be surmounted.

25. The Secretary-General had accepted most of the Working Group's proposals on such issues as leasing and self-sustainment, and his delegation supported the Advisory Committee's recommendation that those proposals should be approved by the General Assembly.

26. On the other hand, the Secretary-General had not accepted the Working Group's recommendations on inland transportation, liability of the United Nations, loss of or damage to equipment and "mission factors" such as environmental and operational conditions impacting on equipment. The Advisory Committee had reached agreement on some of those issues and had made recommendations on others. His delegation hoped that the introduction of a new reimbursement system to be agreed by the General Assembly would not be delayed by staff cut-backs.

27. With regard to the proposal for reimbursement for inland transportation of equipment to the port of embarkation, he agreed with the Working Group that such an arrangement would ensure equity between small and large countries, whatever their economic circumstances. While he agreed that, as stated by the Secretary-General, there might be difficulties with respect to claims verification, it was no time to make further bureaucratic demands of the Secretariat. A compromise could be sought along the lines suggested by the Secretariat, based on the same principles recommended for transportation from the port of embarkation to the mission area (A/50/887, para. 9).

28. With regard to the liability of the United Nations for loss of or damage to equipment that could arise were the United Nations not able to meet its obligations under the lease system (A/50/887, para. 11), his delegation supported the Advisory Committee's recommendation, agreed to by the representatives of the Secretary-General, that the issue should be dealt with through the recourse mechanism for settlement of disputes set out in the new contribution agreement.

29. With respect to compensation for loss of or damage to major equipment due to hostile action or forced abandonment, the Secretary-General had accepted the recommendation for compensation in the case of major equipment valued at over US$ 250,000, but had turned down the recommendation for compensation in the case of equipment whose collective value amounted to more than US$ 250,000 (A/50/887, paras. 12 and 13). The Advisory Committee, after having discussed the issue,

had recommended considering an insurance arrangement for the second category, by including in the lease rates an appropriate compensation factor. His delegation supported that proposal, but believed that compensation should be further differentiated, since under a wet lease arrangement any loss would be identical to that suffered under a dry lease but when dealing with damage to major equipment under a wet lease, the contingent in question would have to be compensated for repair costs that would not arise under a dry lease.

30. With regard to the establishment of environmental and operational factors, the Working Group had recommended that extreme conditions in mission areas should be reflected in additions to the lease element for major equipment and to the self-sustainment rate, the addition being up to 5 per cent for each factor. The Secretary-General and the Advisory Committee were recommending that those two factors should be combined into a single factor, not to exceed 5 per cent in toto. His delegation felt that the extreme conditions experienced in several operations merited retaining both factors, and that their application should be predetermined in each case in the contribution agreement.

31. His delegation regretted that the draft contribution agreement had not yet been made available and expected that the final text would be available for review by Member States prior to implementation.

32. He drew attention to the third party liability of the United Nations, an issue which had not been addressed either by the Secretary-General or the Advisory Committee. The proposed reforms would transfer liability for loss of and damage to contingent-owned equipment from the United Nations to the troop-contributing country, subject to the compensation arrangements being proposed. From a legal standpoint, his delegation found it unfortunate that the proposals did not confirm that third party liability would remain with the United Nations under the new arrangements. If, as he believed, there was no doubt as to the Organization's continued liability, he saw no objection to confirming it explicitly in the new system to be adopted, including in the contribution agreement. Given that the issue went beyond reimbursement in respect of contingent-owned equipment, it might be useful to consider it separately in the broader context of United Nations liability in peace operations. He would appreciate it if the views of the Legal Counsel in the matter could be obtained.

33. Mr. SURIE (India) said that it was very important to find fair and satisfactory ways of resolving issues such as the setting of comprehensive standards and rates of reimbursement for contingent-owned equipment contributed by Member States, reform of the current arrangements for death and disability benefits and appropriate procedures for liquidating the assets and liabilities of missions that had ended their mandates.

34. The reports of the Working Groups on reimbursement for contingent-owned equipment contained general recommendations on substantive and procedural reforms. In his report on the question (A/50/807), the Secretary-General endorsed most of those recommendations, with the exception of those concerning reimbursement of inland transportation costs and the loss or damage of major equipment due to hostile action or forced abandonment; the report, however, gave no explanation for those exceptions. His delegation supported the recommendations on both those issues, since the Working Groups, which were

composed of military and financial experts, had made their recommendations after carefully considering all aspects of the issues, including the financial aspects

35. Regarding the Secretary-General's proposal that the environmental and operational factors constituting hardship conditions in missions should be combined into a single factor, his delegation felt that the two factors were not directly related to one another and that combining them would not be consistent with the intentions behind the Working Groups' recommendations.

36. His delegation endorsed the recommendations of the Working Groups and believed that they should be adopted in toto. The new arrangements should be implemented with effect from 1 July 1996 and should apply to all peace-keeping operations that had been in existence as of 1 January 1996.

37. On the question of uniform compensation for death and disability, the Heads of State and Government of non-aligned countries who had met in Cartagena, Colombia, in October 1995 had highlighted the need for the urgent establishment of a uniform scale of compensation for death and disability in respect of peace-keeping personnel. He therefore appealed to all delegations to adopt a constructive attitude on the matter.

38. In his report on death and disability benefits (A/49/906), the Secretary-General had also underlined the inequity of the current arrangements and proposed two specific options which would reflect the principles laid down in General Assembly resolution 49/233. His delegation recommended the early adoption of the proposal regarding the establishment of a system of compensation featuring standardized rates of reimbursement for death and disability, since it would ensure equal treatment of Member States and would simplify and expedite the administration of the system. His delegation was also willing to examine the proposal regarding the establishment of a uniform global insurance scheme to cover all troops.

39. He regretted that the Secretary-General had not yet submitted the report, which, according to resolution 49/233, was due no later than 31 March 1995, on the feasibility of procedures for valuation and transfer of costs for assets to be redeployed from a peace-keeping operation during its liquidation phase to other peace-keeping operations and for reimbursement to the special account for the liquidating operation. Moreover, the Secretary-General had not yet submitted proposals for enhancing the audit functions in those peace-keeping operations which would not have resident auditors, and their relative costs, which had been requested in the same resolution.

40. His delegation recognized the importance of the issues under consideration and was ready to cooperate in reaching an early consensus on all of them.

41. Mr. HANSON (Canada), speaking also on behalf of Australia and New Zealand, welcomed the proposal on reform of the procedure for determining reimbursement to Member States for contingent-owned equipment. The current system was cumbersome and very bureaucratic, leading to increasing frustration on the part of the Secretariat and of troop-contributing countries.

42. The current system had not been designed for complex operations in which contributing countries provided a wide array of equipment and matériel on a cost-reimbursable basis. The new system, developed jointly by troop-contributing countries and the Secretariat, promised to simplify and improve the financial management of peace-keeping operations, particularly from a budgetary and reimbursement standpoint. Greater discipline and responsibility would be introduced as greater accountability was assigned to both national contingents and United Nations staff in the field. From the perspective of the Department of Peace-keeping Operations, the new system would enhance the budgetary process by applying the standard costs developed for personnel and equipment.

43. He commended the Advisory Committee's comprehensive analysis of the proposed reform. He also endorsed the recommendations contained in its report (A/50/887) and appreciated its comments on inland transportation, liability, loss and damage, and mission factors.

44. Although several issues required further analysis, they could be resolved during the first year of the implementation of the proposed system. He supported the introduction of the system with effect from 1 July 1996 and looked forward to its smooth implementation, and offered the Secretary-General any assistance that might be required in that regard.

45. Mr. BISTA (Nepal) said that, as a national of a troop-contributing country, he felt that the Fifth Committee should give the utmost consideration not only to the safety of the troops, but also to the conditions and arrangements under which they served the Organization. The unequal treatment of different Member States with respect to death and disability benefits was detrimental to the morale of the troops in the service of the United Nations and could also affect the coordination required in complex operations. In view of the rapidly changing nature of peace-keeping operations, it was all the more essential to bring about stronger cohesiveness in peace-keeping units on the basis of equality and mutual respect.

46. In resolution 49/233, part III, the General Assembly had clearly expressed its wish to revise the current arrangements for compensation for death and disability and to reduce and eliminate delays in the settlement of claims. To that end, it had laid down the principles of equal treatment of Member States, compensation to the beneficiary that was not lower than reimbursement by the United Nations, simplification of administrative arrangements to the extent possible, and speedy settlement of claims for death and disability. It had also requested the Secretary-General to submit concrete proposals, based on those principles, on possible revisions to the current arrangements and, in doing so, to include detailed information on the administrative and financial implications of the options set forth in the resolution.

47. The report submitted by the Secretary-General pursuant to that resolution (A/49/906 and Corr.1), besides giving a succinct historical perspective of the current arrangement, acknowledged two incontrovertible facts: that there was an undue delay in the settlement of death and disability claims, and that the current system of compensation payable for death and disability contained an element of unequal treatment. His delegation felt that it was essential to

correct those inequities and that it was not worthwhile to examine options that were not consistent with the four principles laid down by the General Assembly.

48. His delegation agreed with the recommendation, contained in the Advisory Committee's report (A/50/684), that the Secretary-General should be requested to prepare a detailed proposal, together with draft procedures for implementation and the administrative, financial and legal implications.

49. Mr. ATIYANTO (Indonesia) said that his delegation paid particular attention to the issue of death and disability benefits and believed that the Secretary-General should continue his efforts to improve the current arrangements in full compliance with the principles set forth in part III of General Assembly resolution 49/233 of 23 December 1994.

50. In that regard, Indonesia associated itself with the conclusion contained in the report of the Secretary-General (A/49/906) and the observations set forth in the report of the Advisory Committee (A/50/684), especially with regard to options 2 and 3, and therefore welcomed their further discussion. His delegation also underscored the conclusion of the Advisory Committee in paragraph 21 of its report that, pending the introduction of a new system, without prejudice to whatever new procedures would be decided upon by the General Assembly, steps should be taken to improve the management of the current system so as to handle outstanding claims expeditiously.

51. Mr. FAGUNDES (Brazil) said that his delegation had consistently maintained that the issue of death and disability compensation mechanisms should be carefully looked into since the principle of equal treatment of Member States was not being fully observed. Brazil had also felt that there was a need to devise a new system of reimbursement for contingent-owned equipment.

52. His delegation associated itself with the views expressed by the delegation of India and only wished to add that it fully supported the proposal put forward by the Working Group that the United Nations should provide reimbursement for the cost of inland transportation to the national port or ports of embarkation.

53. Mr. WAHAB (Pakistan) said that his delegation fully supported the views expressed by the representatives of India, Indonesia, Nepal and Brazil and only wished to add some comments.

54. His delegation attached great importance to the question of the safety of United Nations personnel, particularly those involved in peace-keeping operations. He welcomed the finalization of the Convention on the Safety of United Nations and Associated Personnel. Pakistan urged the Secretary-General to initiate a dialogue with Member States on all measures that could be taken in situations where current safety measures were considered inadequate. His country was deeply concerned about the inadequacy of the current system of death and disability benefits for national contingents. All troops performed the same tasks, confronted similar risks and were equally dear to their nations. Accordingly, United Nations compensation should be applied uniformly.

55. With regard to the reform of the procedure for determining reimbursement to Member States for contingent-owned equipment, his delegation strongly supported

the recommendations of the Working Group concerning the reimbursement of inland transportation and loss or damage to major equipment due to hostile action and did not see any justification in the Secretary-General's report, which did not endorse those recommendations.

56. Mr. ALOM (Bangladesh) said that his delegation shared the views expressed by the representatives of India, Nepal, Indonesia, Pakistan and Brazil. Although it generally agreed with most of the recommendations by the Working Group on the reform of the procedure for determining reimbursement, he wished to express some reservations. His delegation supported the recommendation by the Working Group and the Secretary-General with regard to the standards for sustainment, but would prefer that - the paragraph stating that a troop-contributing country was responsible for sustaining its contingent without any United Nations support should then indicate that provision would be made for sustainment through the United Nations or another contingent, particularly in the case of troop-contributing developing countries, especially least developed countries. Otherwise, it would be possible only for poor countries that wished to do so to contribute troops for United Nations peace-keeping operations.

57. While Bangladesh agreed with the Working Group with regard to loss or damage of major equipment due to hostile action or forced abandonment, it noted that the Secretary-General observed that the terms "hostile action" and "forced abandonment" were too widely defined.

58. The question of death and disability benefits was a cause of great concern for Bangladesh, which was a poor troop-contributing country. His delegation strongly supported implementing and maintaining the principle of equal treatment of Member States and, in that regard, supported option 1.

59. Mr. ZHANG Wanhai (China) said that he agreed with the views expressed by the previous speakers and requested a clarification with regard to the report of the Secretary-General (A/49/906). He wished to know whether the standardized rates given in annex II for death and disability benefits was the compensation rate that was really used.

60. Mr. TAKASU (Controller) said that annex II indicated the amount that would be required for death and disability benefits if option 2 proposed by the Secretary-General was adopted. Under the current procedure, the amount paid by the United Nations was based on certified claims by Member States. In some cases there were considerable disparities since there was no maximum limit or standardized rate. Annex II indicated the amount which would be necessary to pay in benefits if the standardized rate of $50,000 per case, regardless of the country in question, was adopted.

61. The second column in the table in annex II indicated the amount claimed by Member States according to national records. The advantage of the new option was that a standardized rate would be applied in order to preclude differences between one country and another.

62. Mr. ZHANG Wanhai (China) said that he had asked his question because he wished to stress that General Assembly resolution 49/233 set forth the four principles which should regulate death and disability benefits and that the most

important principle was the first one, namely, equal treatment of Member States. There might be differences in national legislation and procedures, but since all had participated in United Nations operations under the Organization's flag and to promote peace, all should receive equal treatment. That principle should be maintained in any reform.

63. Mr. OWADE (Kenya) said that Kenya, as a troop-contributing country, attached great importance to the question of death and disability benefits and considered it essential that the system to be established should take account of the principle of equal treatment of Member States since the old system was, in fact, discriminatory. Kenya wished to support option 2, but was prepared to be flexible in the debate.

The meeting rose at 4.45 p.m.